

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.498 OF 2017
IN
WRIT PETITION NO.396 OF 2005**

**Mr. Dilip S/o. B. D. Gulati and anr. : Applicants/Petitioners
versus
The State of Maharashtra and anr. : Respondents.**

**Mr. Ashok M Saraogi for the Applicants/Petitioners.
Mrs P P Shinde, APP for the Respondent No.1.**

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 12th MARCH 2018**

P.C.

1 The above Criminal Application has been filed for condonation of delay of 8 years and 261 of days in filing the same and for restoration of the above Writ Petition which has stood dismissed for non-prosecution on account of the non-appearance of the learned advocate for the Petitioners on 29/01/2009.

2 As indicated above, the condonation of delay is sought of a period of 8 years and 261 days in filing the above Criminal Application. It is required to be noted that the above Writ Petition was filed for quashing of issuance of process by the learned Chief Judicial Magistrate, Patna. Since we are not in agreement with the learned counsel for the Applicants/Petitioners that the above Writ Petition filed in this Court for quashing of the process issued by the

Court in Patna is maintainable in this Court, we do not deem it appropriate to consider the above Criminal Application for restoration of the above Writ Petition. The above Criminal Application is accordingly dismissed on the said ground.

3 Since the above Writ Petition has stood dismissed for non-prosecution on account of non-appearance of the learned Advocate for the Petitioners obviously the above Petition has not been dealt with on merits. The Petitioners would be at liberty to adopt such proceedings as are permissible in law, if the Petitioners are aggrieved by the issuance of process in the appropriate Court. We do not express any opinion as regards such challenge. We leave the issue of limitation also open to be urged before the appropriate Court.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]